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Master's Thesis of International Studies

# Changes Trump Made to the U.S. Immigration Policy

An Analysis of Immigration Policies since  
Ronald Reagan

February 2021

Graduate School of International Studies  
Seoul National University  
Area Studies Major

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# Abstract

During the 2016 presidential election, candidate Donald Trump and his immigration policy campaign had become a subject of controversy. It was widely believed that the election of Trump would cause a drastic change to the immigration policy of the country, and it would impact people such as Mexicans, high skilled immigrants, and society. (Verea, 2018; Martin, 2017; Miner and Peterson 2018; Pierce et al., 2018). As concerned, soon after entering the White House, his immigration reform was severely criticized. Only five days after as a president, he signed two executive orders under the purpose to secure public safety: “Enhancing Public Safety in the Interior of the United States” and “Border Security and Immigration Enforcement Improvements.” These orders enforced border security and removed undocumented aliens. In addition to these two orders, he has used several executive orders and proclamations to revoke and amend previous immigration policies, especially that of President Obama. Followed by the waves of executive orders issued, news media competed to publish its critical opinion on Trump’s immigration policies. The New York Times (2020) recently published an article “Trump’s Overhaul of Immigration is worse than you think” stating that his immigration policy has affected every aspect of immigration negatively and it is difficult to undo. Waldman (2019) wrote an opinion about how Trump’s immigration policy is “cruel” with its harsh stance. However, these articles raised the question, whether President Trump’s immigration reform departed from past administrations as described in news media and journals or is it a continuation. The author further question, if there is a difference, what could it be, and why Trump has made such a change.

To answer the following questions, the article goes through the content of the US immigration reform from Reagan through Trump, analyzing the trend of the anti-immigration approach. It did not start with Trump but began in the early history of the United States. By examining the immigration laws in the contemporary era, the author concluded that the past acts have paved a path to current immigration policy. The Immigration Reform and Control Act of 1986 (IRCA) and Illegal Immigration Reform and Immigrants Responsibility Act of 1996 (IIRIRA) were the start of expanding “cracking down” enforcement on immigrants and was further enhanced through the next presidents. Trump may have altered some of the previous immigration policies, but it remained similar to the direction of the past laws. The article compares practices of overall executive power used by presidents, especially from Reagan to Trump, and how many were related to immigration policy. From this, the author found out that President Trump’s use of presidential directives has exceeded the former presidents in changing the immigration policy, in other words, his method of altering the policy differed from the past. Lastly, the paper concludes with an explanation of why Trump has focused on immigration and how it led to winning the 2016 presidential election. This article provides an insight to explain the current immigration crisis that the United States faces under President Trump with historical analysis on the root of anti-immigration policy. Understanding the history of deeply rooted anti-immigrant sentiments in the United States may help resolve the current immigration crisis.

**Keywords:** Donald Trump, U.S. immigration policy, Anti-immigration  
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# Chapter I. Introduction

## 1.1 Study Background

Since the 2016 presidential campaign, Donald Trump has shown a matter of great interest in stopping immigrants from illegal entry. In his announcement on June 16, 2015, he promised to build “a great, great wall” at the United States-Mexico border, and implement a harsher border crackdown policy on unauthorized immigrants (Law, 2019). Both aimed to prevent illegal entry into the country and any harm it could affect Americans. As promised, on January 25, 2017, five days after the inauguration, President Trump signed two executive orders: “Enhancing Public Safety in the Interior of the United States” and “Border Security and Immigration Enforcement Improvements.” The first was to ensure the public safety of Americans across the United States, and the Nation’s immigration laws are executed. The second, to build, so-called the “Trump Wall,” along the US-Mexico borderline that Trump promised during the 2016 presidential campaign. Both strengthened immigration enforcement within the US territory and gave Immigration and Customs Enforcement (ICE) the power to remove suspected aliens. Two days later, President Trump signed another executive order: “Protecting the Nation from Foreign Terrorist Entry into the United States.” It soon after became known as the “Muslim ban,” which barred the entry of refugees and travelers from seven Muslim countries: Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen. President Trump argued that such laws are crucial to protect the country, and said, “otherwise we don’t have a country” (Kamisar, 2016). Ever since the beginning of his presidential term, President Trump has been consistent with his attitude toward

foreigners. They have been characterized as threats to the country's safety; thus, must be exiled.

Followed by the waves of executive orders issued, news media competed to publish its critical opinion on Trump's immigration policies. The New York Times (2020) recently published an article "Trump's Overhaul of Immigration is worse than you think" stating that his immigration policy has affected every aspect of immigration negatively and it is difficult to undo. Waldman (2019) wrote an opinion about how Trump's immigration policy is "cruel" with its harsh stance. Such a negative portrayal of Trump's policy is also reflected in the public opinion poll conducted by Paws Research Center. Both Americans and world-wide's view on Trump's immigration policy remain negative. For instance, regarding the US-Mexico border wall, 58 percent of Americans opposed the substantial expansion of the wall while 60 percent disapproved globally (Bundiman, 2020; Gramlich, 2019). Scholars have also opposed the immigration policy of the current administration claiming that it could harm immigrants and the United States on various occasions (Verea, 2018; Martin, 2017; Miner and Peterson 2018; Pierce et al., 2018).

Despite such challenges, President Trump has used his presidential power to create, revoke, and amend immigration policy. However, is Trump's immigration policy an outlier compared to previous administrations' as the media portrayed? To answer the question, this article compares the immigration policies of past presidents – from Reagan to Trump – regarding its method, volume, and contents. Unlike the mainstream media's criticism on immigration policy of the Trump administration, the Immigration Reform and Control Act of 1986 (IRCA) and Illegal Immigration Reform and Immigrants Responsibility Act of 1996 (IIRIRA), were the cornerstone of expanding "cracking



down” enforcement on immigrants and was further enhanced through next presidents. Trump may have altered some of the previous immigration policies, but it remained similar to the direction of the past laws. Analyzing the origin of America’s anti-immigrant policies may help understand the current unusual immigration crisis.

## 1.2 Literature Review

As a nation of immigrants, America has about 48 million immigrants residing in the country. According to the United Nations (2019), the United States holds 50.7 million immigrants, the largest number in the world followed by Germany (13.1 million) and India (13.1 million). With the enormous size of the immigrant population, illegal aliens became a problem. From 1990 to the late 2000s, the unauthorized immigrant population tripled in its size from 3.5 million to 12.2 million (Budiman, 2020). Mostly came from Mexico, who were single young males, as a workforce. As a response to the immigration crisis, immigration policy has often been listed as a priority by each presidential administration.

Past administrations have used unilateral actions as it gives an advantage as a “first-mover” that reduces internal conflict and allows direct implementation of presidential preference to the public (Belco and Rottinghaus, 2017; Potter et al., 2019). Given that individual presidents had used executive actions during their presidency term, scholars have analyzed their use of executive orders and proclamations (Dodds 2019; Watson et al. 2012). However, within the political science literature, there is little review on the use of presidential directives to shape immigration policy. The exception includes Ferguson (2015), who examined Barack Obama’s use of executive orders to implement

DACA. As for Trump's immigration policy, specific EOs, such as the "Travel Ban" and the consequences of reform, such as on people, society, and policy have gained attention from scholars (Masri et al. 2017; Adler 2017; Kerwin and Warren 2019).

To assess Trump's usage of executive actions to recent presidents, Potter et al. (2019) has researched the volume of Trump's executive actions compared to that of the past administrations. Waslin (2020) further examined the issuance of executive actions of Trump in creating immigration policy to the previous presidents. Although many recent studies explained Trump's immigration orders in comparison to that of the past administrations, there are only a few pieces of research on connecting the dots between Trump and previous administrations' immigration policies.

There have been some studies on how past immigration reforms have affected the current immigration policy system. The Center for Migration Studies of New York (CMS), under its Journal on Migration and Human Security section, published eight papers examining the impact of IIRIRA on immigration policy, immigrants, and society. These papers discussed how IIRIRA transformed US immigration policies and became a milestone to contemporary immigration policy (Kerwin 2018; Juárez et al. 2018). They further examined the consequences of IIRIRA in various areas, including, refugees, family reunifications, arrests of Hispanics, and criminalization of immigrants (Juárez et al., 2018; Macías-Rojas, 2018; Abrego et al., 2017; Coon, 2017; Schiro, 2017; Acer and Byrne, 2017; López, 2017). Although these articles provided rich literature on how IIRIRA impacted the contemporary US immigration system, it lacks explanations for linking the IIRIRA to Trump's immigration reform. Moreover, despite the significance of the year 1996 (when IIRIRA was signed) in the history of the immigration system, I believe, Immigration Reform and Control Act of 1986 (IRCA) has significant meaning to

current immigration policy. A comprehensive analysis of how the US immigration reform has changed over time since the IRCA through President Trump is needed.

### 1.3 Methodology

Previous researches lack connecting Trump's immigration policy to the past administration. Thus, this article answers two questions:

R1: How does Trump's immigration policy differ from the previous administrations' immigration policy?

R2: How does Trump's immigration policy differ in method from that of his predecessors?

To answer these research questions, this article compares the content and method of immigration reforms under the contemporary US presidents: Reagan through Trump. The analysis starts in 1986 because it was a significant year in the history of the US immigration policy. While IIRIRA is known to be one of the most significant reforms done in America's history, the year 1986, under Reagan's presidency, when the Immigration Reform and Control Act (IRCA) and Anti-Drug Abuse Act (ADAA) was signed, has significantly impacted later immigration policies by Bill Clinton, George W. Bush, Barack Obama, and Donald Trump. To understand whether Trump's immigration reform continued or departed from that of the past administrations, this paper first begins with analyzing the content of the policies by each presidents' immigration reform. Then compares it to current Trump's immigration policies. Lastly, comparing the different methods of implementing immigration.

The first chapter of this article examines the contents of immigration reform from Reagan through Obama in chronological order. This chapter describes how the overall direction of Trump's immigration policies is a continuation of the previous administrations rather than an outlier. I have selected some iconic immigration reforms of previous presidents: President Reagan's the Immigration Reform and Control Act and Anti-Drug Abuse Act; George H.W. Bush's the 1990 Immigration Act; Bill Clinton's the Violent Crime Control and Law Enforcement Act, the Anti-terrorism and effective death penalty act, and the Illegal Immigration Reform and Immigrants Responsibility Act; George W. Bush's the USA PATRIOT Act, the Enhanced border security and visa entry reform act, the REAL ID Act, the Secure Fence Act, and the Consolidated Appropriations Act; and Barak Obama's extension of 287(g) programs and Secure Communities. For every law and policy, I have looked through each document and found a connection among previous presidents' immigration reform. Each president amended previously enacted laws by enforcing border security and expanding the list of deportees.

The second chapter then analyzes Trump's policies to examine the similarities and differences to the past administrations' reforms. Trump's executive orders such as the construction of the wall, the Muslim ban, and the deportation of illegal immigrants are carefully examined. Historical analysis explicates how the current crises have been built over a long period, and it is not an original movement of President Trump. The conditions that have led to Trump's wall, and bans came from the past and it did not happen all of a sudden. However, despite the similarities, Trump indeed showed great differences in some areas. The paper analyzes some important changes that Trump made in immigration policies such as, imposing entry restrictions, ending DACA, and separating families of illegal immigrants.

The third chapter examines the use of executive actions by each US president to understand the difference between Trump and other presidents in issuing immigration-related orders. This is one of the significant differences. Trump had signed several executive orders related to immigration as soon as he became the president, unlike his predecessors. He received several criticisms for altering the efforts of immigration policies implemented by past presidents, especially Obama. Thus, it is noteworthy to analyze the volume of executive actions of Trump to explain the difference in immigration reforms. Data is gathered from national archives, federal register, and two different articles by Potter et al. (2019) et al and Waslin (2020) respectively. Potter et al. examined the overall usage of executive orders by President Reagan through Trump. Waslin also analyzed executive orders and presidential proclamations from President Truman through Trump, especially focusing on identifying immigration-related executive orders. Previous studies by Potter et al. and Waslin's collected data are limited to the year 2019. Therefore, I have combined four sources (national archives, federal register, Potter et al., and Waslin) and updated the data to a recent date, until 2020 August. The data explain how Trump's immigration-related executive actions show similarities and differences in comparison to that of his predecessors.

Lastly, the article concludes by explaining what has led Trump to make such changes to immigration laws. In his presidential campaign, Trump targeted illegal immigrants stating that they "infest" the country. His immigration policies reflect how Trump visualizes illegal aliens as harm to national security and the economy. Based on his promises during the presidential campaign that he would secure the working class of Americans from illegal immigrants, Trump won the 2016 presidential election. Many of the voters came from Michigan, North Carolina, where people "feel disrespected"

(Hohmann, 2018). They lost opportunities in jobs and saw their security fail due to illegal immigrants. Trump understood the needs of these people and accused unauthorized aliens as the cause. The characteristics of Trump voters reflect why Trump's focus on immigration policies was needed. To maintain his supports, Trump had to show an effort on restraining the illegal immigrants.

## Chapter II. History of Immigration Reform

Donald Trump signed three executive orders regarding immigration issues only after seven days in his office. His abnormal usage of executive tools related to immigration compared to previous presidents shows that President Trump has exercised unilateral power to change immigration policies. It is noteworthy to examine where his immigration policy is based on. Immigration-related problems such as economic crisis, criminalization, and state violence in the country have existed over decades and it is no surprise that immigration policies have been on the priority list of each president. Every administration has put an effort to prevent illegal immigration that could harm its security. Trump's immigration policies against undocumented aliens are indeed rooted in his predecessors.

The history of the United States shows its origin of whom to include and whom to exclude. What determines the exclusion has changed over time by domestic and international relations. When the federal government was established in the United States, the country welcomed immigrants, especially those from Europe. These immigrants colonized the land and founded their nation. However, at the same time, the country decided who could be citizens of the nation. Neither the Indigenous people nor enslaved

black people were considered as part of them. The Naturalization Act of 1790 restricted citizenship to “free white people” and left out slaves, servants, and even women (Encyclopedia, 2020). This barring soon expanded to immigrants. The 1875 Page Act and the 1882 Chinese Exclusion Act restricted specific immigrant groups. The Chinese Exclusion Act was the first law to decide who could enter and who couldn’t. This debate created the concept of an illegal alien. Then in 1917, the Asiatic Barred Zone Act widened the ban to most of the Asian ethnic group. Since then, the country has decided whom to accept.

The major change in the immigration law was implemented in 1924, under President Calvin Coolidge: the Johnson-Reed Act. It introduced a numerical quota that barred immigrants from Southern and Eastern Europe while favoring those from Northern and Western Europe. These quotas were established to reduce the growing number of immigration, in other words, America was recognizing the flux of immigrants as a crisis. The law was resurfaced in a 2015 interview by the Attorney General Jeff Sessions, who stated that the 1924 Immigration effectively slowed down the growing level of immigration, and it “was good for America” (Serwer, 2017). Sessions then served as the attorney general in the administration of President Trump from 2017 to 2018.

The United States has long been deciding whom to naturalize and whom to enter. It started from Chinese to most Asians and expanded to granting fewer quotas to those who they did not favor. This discrimination has laid a path to contemporary immigration policies, barring people of a certain country. In the recent era, From Ronald Reagan through Donald Trump, the federal government has criminalized unauthorized immigrants linking them with drugs and terror. They not only barred immigrants but also

enforced barriers at the border to stop their illegal entry. President Trump has been trying to reduce the number of immigrants by implementing travel restrictions, ending Deferred Action for Children of America (DACA), Diversity Lottery Program, and through many other restrictions on visa holders. He further enforced border security to keep undocumented aliens out of the country. These attempts are indeed a continuation of his previous administrations. This chapter introduces the history of immigration law and how it has developed from Ronald Reagan to Barack Obama.

## 1. Ronald Reagan (1981-1989)

Ronald Reagan was elected as the 40th United States president in 1981 when the conflicts over immigration raised. In his statement on July 31, 1981, President Reagan stated that the Cuban influx to Florida has raised a problem of effective immigration policies. While the country should “continue America’s tradition as a land that welcomes peoples,” they should also ensure “adequate legal authority to establish control over immigration” (1981). This included whom to grant the status, enforcing border security, removals of illegal immigrants, and penalizing those who violate the law. Therefore, shifted the US immigration policy, stating that the new policy will open the front door but close the back door for immigrants. Several legislations were signed to carry on his statement. During his presidency, Congress passed the Immigration Reform and Control Act of 1986 (IRCA) as a response to illegal immigration, which became an important milestone to the current immigration policy of the United States. This was the first major attempt by Congress to solve immigration problems in the contemporary period.



IRCA had “three-legged stools” (which the bill sponsors referred to) to counter illegal immigrants (Muzaffar et al., 2001). The three-leg of stools include (1) legalization for unauthorized immigrants who had been in the US for more than five years; (2) harsher border enforcement; and (3) sanctions for employers who hire illegal immigrants. As indicated, the IRCA provided a path to citizenship for about three million unauthorized immigrants who had lived in the country since January 1982 or had completed 90 days of agricultural work between May 1985 and May 1986. The acceptance rate reached about 94% but at a great cost. The Act while granting citizenships to some immigrants, on the other hand, expanded the Executive Office for Immigration Review (EOIR), and Immigration and Naturalization Service (INS), which strengthened border security. Each agent adjudicated deportation cases and handled immigration enforcement, respectively. INS increased its budget by 50 percent from its 1986 level and increased the number of Border Patrol agents (Argueta, 2016). The law authorized a \$35 million immigration emergency fund to support this change. The third part of this law penalized employers who hired unauthorized immigrants to reduce illegal immigrants in the job market and improve the wages and labor environment for US workers. This sanction was first introduced in American history. The law as a whole had effectively criminalized illegal immigrants and laid a path to deport noncitizens convicted of the offense.

Along with IRCA, the Regan administration’s effort to criminalize undocumented immigrants and to prevent their illegal entry strengthened by the 1986 and 1988 Anti-Drug Abuse Act (ADAA). President Regan declared war against drugs (a.k.a. War on Drugs) with zero tolerance, and it effectively linked illegal immigration with the drug. The law included enforced border security and required advanced security

programs, such as an integrated cooperative data exchange system and enhancement of border patrol personnel. The border patrol agents expanded their focus from the apprehension of illegal aliens to work with the Drug Enforcement Agency (DEA) to find those who convicted crime. In 1988, Congress amended the law adding Section 7342., the concept of “Aggravated Felony.” It referred to those who commit a crime of murder, federal drug trafficking, and illegal trafficking in firearms and destructive devices. In addition to this, the law further enhanced the border patrol to control and heavily penalized those convicted of such crimes. Section 7343 of the law indicated that those accused of committing the crime are inapplicable of voluntary departure, and cannot return to the United States in the future.

As president Reagan promised, the immigration act passed during his presidency welcomed legal immigrants while strictly closed the door for illegal immigrants. The IRCA prohibited entry of unauthorized people at the expense of allowing a path to citizenship for limited people. The ADAA further connected immigrants with drug and expanded the list of deportable offenses. The concept of aggravated felony was later expanded by other presidents. Both IRCA and ADAA has largely impacted on next president’s immigration policy, George H. W. Bush.

## 2. George H. W. Bush (1989-1993)

George. H. W. Bush administration maintained the zero-tolerance strategy of his previous administration. During his speech on signing the 1990 Immigration Act (IMMACT), President Bush (1990) stated that the new act is a continuation of 1986 IRCA with strengthened enforced authority and it will bill “help secure our (U.S.) borders

- the front lines of the drug war”. The IMMACT modified and clarified certain provisions of IRCA. Like that of the IRCA, the 1990 law, welcomed legal immigrants, but on the other hand, raised the ceiling on regular immigration to a flexible cap of 700,000. It also created a new immigration category, the Diversity Immigration program, also known as the Diversity Lottery. This was introduced as a temporary measure in IRCA. The program issued visas to immigrants who are citizens of countries from fewer than 50,000 immigrants coming into the US over the past five years. However, the act also had introduced several ways to stop illegal immigrants. Firstly, it enforced the law against criminal aliens. It expanded the concept of an aggravated felony on various occasions, which was introduced on the ADDA of 1988. The revised definition of aggravated felony included: 1) any illicit trafficking in any controlled substance; 2) money laundering for which at least five years’ imprisonment has been imposed; 3) any crime violence for which at least five years’ imprisonment has been imposed; 4) violation committed outside the United States and; 5) violations of foreign law for which the term of imprisonment was completed within the previous 15 years. Also, shortened the time frame from 60 days to 30 days for individuals who may request a judicial review of their final order of removal. Those who were convicted of an aggravated felony were barred from reentering the US for 20 years: previously, it was 10 years. Asylums who were convicted of an aggravated felony were prohibited from applying for refugee status. The law became wider in scope and harsher on the illegal immigrants.

Next, along with the expansion of the offense list, the law generally enforced the security. The IMMACT authorized appropriations to provide 1,000 personnel to the INS border patrol. Deportation procedures were also revised. For instance, the deadline for filing for the judicial report after the final deportation order issuance was reduced

from six months to 90 days. The levels of fines and penalties for violating the law were increased for the following: unlawful reentry; overstaying; concealment of aliens; document fraud and others.

The year 1990 was also crucial in the history of the US-Mexico border fence, as it was the year when the United States Border Patrol began its construction of a 14-mile primary fence at San Diego and Tijuana. The construction was completed by 1993 and was reinforced by Bill Clinton in 1996. The Immigration Act of 1990 may have given more room for legal immigrants, but at the same time, tightened the door for unauthorized people by increasing the number of border patrol and expanding the list of deportees.

### 3. Bill Clinton (1993-2001)

Bill Clinton, after two consecutive Republican presidents, was the new Democratic president. The Democratic party, while maintaining its pro-immigration sentiment, took a 'tough-on-crime' approach and adopted the criminalization of unauthorized immigrants of the past presidents (Macías-rojas, 2018). Soon after the election, Bill Clinton signed several bills that restrained illegal immigration: Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA); Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA); and Illegal Immigration Reform and immigrants Responsibility Act of 1996 (IIRIRA).

Immigration reform was first done in 1993 under the Clinton administration after the terrorists attacked the World Trade Center. The new law, VCCLEA was passed to prevent further terror and to stop suspected aliens from entering the country. The

VCCLEA authorized the increase of resources for border patrol, the Inspection Program, and the Deportation Branch. It encouraged arresting aliens who attempt illegal entry into the US or entry into the country with fraudulent documents or who stay in the country after the expiration of nonimmigrant visas. The act total funded \$1.2 billion for enforcement, including tracking center, border control, and deportation proceedings. For alien incarceration itself, \$1.8 billion was allocated.

Only two years after the bombing, there was another terror attack. Two white male Americans attacked federal buildings located in Oklahoma City. In response, the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) was passed to deter terrorism and punish those who committed a crime. Ironically, the law especially targeted Arab and Muslim people, both foreign and American born, despite the fact that the Oklahoma City bombing was committed by Americans (Whidden, 2001). This incident was used thoroughly by both Democratic and Republican lawmakers to mobilize national security. The law actively excluded and deported aliens by enhancing criminal alien procedures, limiting the number of asylums, surveilling suspected foreigners, and expanding the range of deportation. Also, after the complaints of an abused writ of habeas corpus, the law made it difficult for the wrongfully accused defendants from regaining their freedom. The newly enacted law not only connected drugs with aliens but also with terror. Such movement led to increased deportation and a list of offenses.

Five months later from the enactment of AEDPA, the Immigration Reform and Immigrants Responsibility Act of 1996 (IIRIRA) was signed by President Clinton. This made a major change to the Immigration and Nationality Act of 1965 (INA). Many scholars agreed that this act had a significant influence on current immigration policy (Abrego et al., 2018; Hing, 2018). The Illegal Immigration Reform and Immigrant

Responsibility Act of 1996 (IIRIA) continued criminalizing immigrants and allocated more resources to the Border Patrol. The law authorized to increase the number of border patrol agents by 5,000 over the next five years. Moreover, the enacted law authorized INS to acquire state-of-the-art equipment such as aircraft, helicopters, night-vision goggles, and four-wheel-drive vehicles. These implements were given to enforce border security.

IIRIRA also established the 287(g) program that expanded partnerships among federal, state, and local immigration enforcement, and data-sharing program. It treats local agents like that of the federal. The program allows federally trained state and local enforcement to assist in immigration enforcement such as arrest and detention of those who violated the law (Macías-Rojas, 2018). The program worked in three different procedures: jail enforcement, task force, and hybrid. In the jail enforcement model, agents could question the status of immigrants in jail, and those who are suspected are screened by 287(g) officers. Jails conduct screening during the regular booking process. Then the task force officers have the authority to issue arrest warrants, which jail enforcement officers do not have. The task force officers can issue ICE detainers and have the same access to the databases as jail enforcement officers. Lastly, the hybrid model has jurisdictions that operate both jail enforcement and task force together. The program conducted collaboration between the federal and local agents, effectively screening and deporting suspected immigrants.

The law has also made great progress in building the wall at the US-Mexico border that the Bush administration previously constructed. A new budget amounting to 12 million dollars was allocated for a 14-mile triple fence along with the San Diego eastward. It authorized great power and waiver to the attorney general in process of the construction of the fence. Section 102(1) of IIRIRA states that:

The Attorney General, in consultation with the Commissioner of Immigration and Naturalization, shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.

According to section 102(c) of IIRIRA, the Homeland Security Secretary has the authority to waive laws to secure the border. Section 102(c) allowed the Attorney General to waive the provisions of the Endangered Species Act of 1973 and the National Environmental Policy Act of 1969 “to the extent the Attorney General determines necessary to ensure expeditious construction of the barriers and roads under this section.” This law indeed became a milestone to current Trump’s construction of the border wall.

Once again, sanctions on criminal aliens were strengthened. The definition of aggravated felony was expanded through the IIRIRA. INA §101(a)(43) provided a list of crimes regarded as aggravated felonies, which for example, includes sexual abuse against a minor. Penalties on illegal aliens convicted crimes were also strengthened. From April 1, 1997, those attempting illegal crossing into the US were subject to fines up to \$250. Punishments were also given to those who committed crimes including racketeering, alien smuggling, and the use or creating of fraudulent immigration-related documents. The law made numerous offenses crimes such as high-speed flight, false claim to citizenship, failure to disclose role as a preparer of false application for immigration benefits, knowingly presenting document which fails to contain reasonable basis in law or fact and voting in the federal election.

Even legal immigrants were fined in a case for those who are or have been out of status in the US to adjust to permanent residency. The IIRIRA has also shown a

dramatic change in the number of detentions and deportations. It expanded mandatory detentions of noncitizens who could be removed due to criminality. Asylum seekers were also subject to removals until they can provide a “credible fear of perspective.” Before the mid-1990s, deportations remained less than 50,000, but the removals increased from 69,680 in 1996 to 114,432 in 1997 (DHS, 2020). These increased numbers could be explained by the expansion of aggravated felony, enforcement of border patrol personnel, and many others included in the law prohibiting illegal immigrants.

Both AEDPA and IIRIRA have successfully criminalized more illegal immigrants and deported them since his previous presidents. In addition to criminalization, the newly enacted law connected undocumented aliens with terror. This process was able because of the consecutive terror attacks in the US. Not only unauthorized immigrants but also asylum seekers were targeted by the law. The list of deportable immigrants was increased along with enforced border security. The wall was constructed, and many advanced technologies were provided to the border patrol. All of these were to keep America safe from drugs and terror committed by the suspected aliens, especially those who entered the country illegally.

#### 4. George W. Bush (2001-2009)

George W. Bush’s immigration reform had made a stronger connection between illegal immigrants and terror. In 2001, the USA was shocked by one of the deadliest terror attacks, the September 11 attacks. Four planes were hijacked by the Islamist terrorist group. Two crashed the World Trade Center, one targeted the Pentagon, and the last crashed into a field near Pennsylvania. About 3,000 were killed and more



than 6,000 were injured due to these attacks. Americans were outraged by the Islamist attack and as a response, the US government passed several legislations to combat international and domestic terrorism. Six weeks after the attack, the USA Patriot Act was the very first law combating the terror. There were mainly three parts composing the law. Firstly, it expanded the abilities to surveil suspected, including monitoring domestic and international phones. The number of US border patrol personnel tripled to secure the country. Secondly, increased penalties for terror-related crimes and an expanded list of activities that qualify for terrorism. Lastly, eased communication between agencies to allow federal agencies to access resources for counterterrorism. A year later the Homeland Security Act of 2002 was passed to establish the Department of Homeland Security while disbanding INS. For seventy years, INS's mission was to oversee the immigration process, enforcement, and border patrol activities, but now these functions were transferred to DHS. The DHS is divided into three federal agencies: Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), and US Citizenship and Immigration Services (USCIS) and expanded its mission from INS's: the agency not only monitors immigrants but also protect national security. It linked immigration to terrorism, in other words, the government viewed illegal immigration as potential harm to national security. The purpose of establishing the DHS was to improve the information sharing process among federal, state, and local agents to detect and investigate the terrorist threat to the homeland. The DHS was given more resources such as advanced technology to protect the border. The DHS announced Endgame, a strategic plan to remove all deportable aliens. According to the Department of Homeland Security report (2020), from 2001 to 2009, the number of aliens removed from the US doubled from 189,026 to 379,754.

The 2005 Real ID Act also amended the IIRIRA and provided arbitrary powers to DHS. The department was given a waiver of any laws that hamper the barrier construction southern border. The wavier included the Endangered Species Act, the Clean Air Act, the Native American Graves Protection and Repatriation Act, and the Safe Drinking Water Act. With the transfer of power to the DHS, the construction of border barriers was on its track. One decade later since the enactment of IIRIRA, George W. Bush signed the Secure Fences Act of 2006, the law authorizing the reinforcement of fences at the US-Mexico border. IIRIRA Section 102(b) was revised and replaced by “at least 2 layers of reinforced fencing, the installation of additional physical barriers, roads, lighting, cameras, and sensors” and set a deadline for the fence construction by May 30, 2008. This act was supported by both parties, including some famous Democrats politicians known to be pro-immigrants. The Senate voted 80-19 in favor of the act, including former Democratic senators Barack Obama (D-IL), Hilary Clinton (D-NY), and current Democratic Senator Charles E. Schumer (D-NY). In 2008, the Consolidated Appropriations Act again amended the law, authorizing the construction of 700 miles of physical barriers along the Southern border. The law was more flexible regarding the location of the fence and border infrastructure and postponed the deadline of the construction to December 31, 2008. Before Donald Trump’s wall, the United States already has had miles of border fences and thousands of Border Patrol agents.

The federal government has expanded the enforcement budget following the IRCA, IIRRIA, and Patriot Act that also increased the budget. From 1985 to 2003, the budget expanded by 806 percent, from \$141 million to \$1.3 billion. Border patrol activities have consumed the majority of this budget. Along with the budget growth, so did the share going to detention and removal, which accounted for 35 percent in 2002

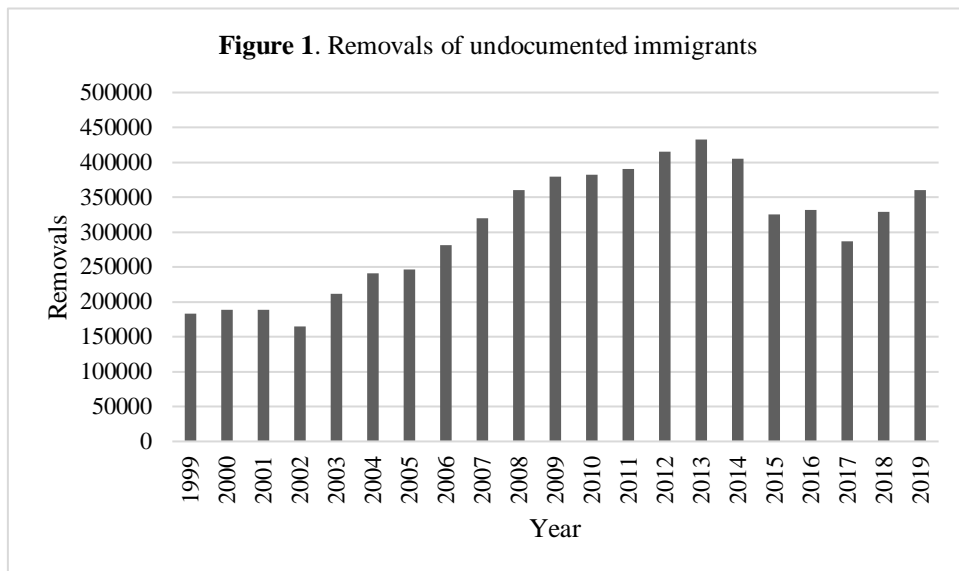
(MPI, 2005). Armed with ballooning funds and multiplying mandates, immigration agencies have removed more and more noncitizens. In 1985, the INS removed just over 23,000 noncitizens. By 2013, removals peaked at more than 432,000 (DHS, 2020).

## 5. Barack Obama (2009-2017)

In 2008, Barak Obama's historic election raised the hope among the noncitizens that the government would reform its hardline approach against aliens. His key promise to Latin voters was to pass comprehensive immigration reform (CIR) that includes the legalization of migrants' legal status while strengthening security at borders. Many versions of the Obama administration's CIR, even that of the previous presidents, shared one thing in common: a grand bargain approach. This approach is to compromise between those who oppose large-scale and illegal immigrants, and those who welcome and open the border to immigrants (Skrentny and López 2013). This model was established in the IRCA, where it restricted undocumented aliens while legalizing three million immigrants. Although the CIR that Obama promised faced challenges by Congress, similar to the IRCA, President Obama granted legal status to immigrants under the DACA program while enforcing the border security. President Obama continued the approach of past presidents.

The number of removals and an increase in the cost of immigration enforcement showed that the Obama administration was working close to the goal of the past administrations. The statistics show that the year 2014 reached the highest number of removals ever since in history (See Figure 1.). It was higher than that of any contemporary president. Obama administration also escalated border security and

funding for the CPB and ICE that reached nearly \$18 billion in 2012, 24 percent higher than all other principal federal criminal law enforcement agencies combined (MPI, 2013). Moreover, the US border patrol budget gradually increased from 2.6 billion to 3.8 billion during his presidency term from 2009 to 2013. President Obama continued to enforce the law against noncitizens and would transform into the “Deporter-in-chief” (Chishti et al., 2017).



Source: Department of Homeland Security (2020)

Under the Obama administration, the 287(g)-program continued to grow. The administration used the power of the executive branch to focus on deporting undocumented immigrants who committed crimes (Skrentny and López 2013). ICE Assistant Secretary John Morton stated, the program “is an essential component of DHS’s comprehensive immigration enforcement strategy,” and the government actively signed 287(g) agreements. By 2009, seventy-seven active agreements had been signed.

The funding for the program also increased from \$5 million in 2006 to \$68 million in 2013.

The Secure Communities program (S-Comm) was also expanded to locate deportees by connecting local jails and prisons to federal criminal databases. The program made it easier to prioritize deportations of criminals through shared information among each agent. For instance, fingerprints of every person arrested were sent to ICE. And if ICE suspects a person who violated the law, it requests the jail to hold he or she so ICE could detain and remove the person. According to ICE (2018), “from its inception in 2008 through FY14 and since its reactivation on January 25, 2017, through the end of FY 2017, Secure Communities interoperability led to the removal of over 363,400 criminal aliens from the U.S.” While the Program targeted person convicted of an “aggravated felony,” it also included certain misdemeanor crimes such as traffic violations. Any undocumented immigrants who apply to the category were eligible for deportation.

President Obama then abandoned the S-Comm due to harsh criticism, and in 2014, DHS newly launched the Priority Enforcement Program (PEP). The memorandum (Johnson, 2014) reflecting the new “Apprehensions, detention and removal of undocumented immigrant” stated a few criteria of the new program. The new program maintained the fingerprint system that was used under the Secure Communities Program. At the same time, the new PEP adopted new three-level enforcement priorities: Level 1) noncitizens convicted of a felony, those engaged in terrorism or gang activity, or those apprehended at the border while attempting to enter unlawfully; Level 2) noncitizens convicted of three or more misdemeanor offenses, and Level 3) noncitizens who have been issued a final order of removal (American Immigration Council). The priority included an aggravated felony that was introduced and expanded by previous

administrations, such as Bush and Clinton. Along with these priorities, the memorandum requested that “resources should be dedicated, to the greatest degree possible,” so that the aliens listed on priority is removed. Under the framework “Felons, not families,” the government effectively divided the immigrant's group into two, one criminal and one not then removed noncitizens who may cause danger to national security (Stevenson 2018).

In exchange for such a hardline approach against immigrants, modest amendments such as a path to citizenship for undocumented people (DREAM-ers) were brought to the negotiating table. Blocked by Congress, President Obama had issued executive actions to reform immigration policy. One of the most important presidential directives practiced by the president was the Deferred Action for Childhood Arrivals (DACA) that was issued as a memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children” (Napolitano, 2012). He authorized the DHS to grants eligible applicants temporary, conditional legal residency. Under the DACA program, applicants were required to meet the following conditions:

- 1) Came to the United States under the age of sixteen,
- 2) Has continuously resided in the United States for a least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum,
- 3) Is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;

- 4) Has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise possess a threat to national security and public safety; and
- 5) Is not above the age of thirty.

DACA and DAPA (Deferred Action for Parental Accountability) granted legal status to an estimated 4.4 million people. President Obama also granted a temporary protected status that was introduced as part of the Immigration Act of 1990, to Central Americans from El Salvador, Honduras, and Nicaragua. And in 2009, President Obama extended Deferred Enforced Departure (DED) for Liberians, which again granted TPS with an effective date of May 21, 2017 (Wilson, 2020).

Obama administration intended to pass the grand bargain CIR at the beginning of its term but failed by the challenge of the Congress. Thus, the president had used his executive power to modify immigration policies. While he opened a path to noncitizens under the Deferred Action program, he, on the other hand, implemented strengthened border security and deportation via 287(g) program, S-comm, and PEP. As a result, by the end of his presidency, Obama had removed about three million immigrants in total. While the reform was done through executive actions, the overall modification was similar to that of the previous presidents. Border security and deportation of undocumented aliens increased while protecting some immigrants.

The history of deportation and criminalization of unauthorized aliens has developed by the effort of each administration and Congress. From Reagan's IIRIRA through Obama's expansion of the 287(g) program and PEP, the country has steadily prevented immigrants from entering the territory. They all used the grand bargain strategy to compromise both sides: those who advocate and those who critics immigration.

However, the overall direction of the immigration reform was directed to restrain immigration especially those who violate the law. The government has divided immigrants into two groups, good and bad, illegal immigrants. To those who have no criminal record with years of continuous residence, the country welcomed, while for bad immigrants, the government relentlessly deported them. Trump's immigration reform has not departed from this trend. Although he has used more executive power than the other presidents, an exception of President Obama, to modify some policies, the overall direction maintains the grand bargain strategy.

### Chapter III. Trump and Immigration Policies

Donald Trump's presidential campaign and his remarks have attracted the mainstream media and public controversy. His main slogan of the campaign was "Make America Great Again," which he was inspired by former President Reagan's "Let's make America Great." The main focus of the campaign addressed strengthening immigration laws, renegotiating free trade deals, more aggressive foreign policy against the Middle East, lowering taxes, boosting the economy, and repealing regulations on finance and the environment. Among all his campaigns, immigration law especially gained severe attention.

During the immigration speech in Arizona (Politico, 2016), Trump promised ten changes to the current immigration law. First, to construct a physical wall at the US-Mexico border, which will be fully funded by Mexico. Second, to end Catch-And-Release, meaning that undocumented immigrants will be detained until they are removed from the country. Third, zero-tolerance policy for criminal aliens, through implementing



Secure communities, expanding ICE officers and border patrol agents, and passing Kate's law. Fourth, block funding for sanctuary cities, those who do not cooperate with the federal agency. Fifth, cancellation of unconditional executive orders especially that of former president Barack Obama. Also, the enforcement of immigration laws to remove criminal aliens. Sixth, suspend the issuance of visas for immigrants from specific areas such as Syria and Libya via new screening tests. Seventh, ensuring that other countries take their people back who are deported from the US. Eight, completion of the biometric entry-exit visa tracking system. Ninth, turning off the jobs and benefits magnet to secure all aspects of American life. Lastly, tenth, reforming immigration so that it serves the best interests of the country. These ten steps that Trump proposed, would ensure the termination of illegal immigrants while meeting the needs of the country.

Based on these ten statements and his orders to alter and create immigration policy, I have analyzed the similarities and differences of Trump's policies to the past. The promises that Trump made as a presidential candidate and his new policies to perform those, showed overall similarities to that of the past administrations. However, unlike his predecessors, who made immigration reform through consultation with Congress, Trump's was done by an imperial use of executive orders in a much more aggressive way. The general immigration policy nevertheless was not a departure from previous administrations, but rather an escalation of long-existing policies.

## 1. Zero-Tolerance Policy: Enforcement of Immigration Laws

Trump's first immigration policy, which is implementing enforced immigration law, was a continuance of the past. The new zero-tolerance policy under the Trump

administration originated from the past administrations especially that of Ronald Reagan with an intention to deter illegal immigrants from crossing the border. Trump during the presidential campaign, signed executive order 13768 in 2017, “Enhancing Public Safety in the interior of the US”, expanding immigration law enforcement. This enforcement showed similarity to the past immigration laws. The first part of the order defines enforcement priorities removal aliens that is listed on 8 U.S.C. 1182(a)(2), (a)(3), and (a)(6)(C), 1225, and 1227(a)(2) and (4): a) have been convicted of any criminal offenses; b) have been charged with any criminal offense, where such charge has not been resolved; c) have committed acts that constitute a chargeable criminal offense; d) have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency; e) have abused any program related to receipt of public benefits; f) are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States or g) in the judgment of an immigration officer, otherwise pose a risk to public safety or national security. These criteria were introduced and developed by the prior presidents. For instance, the 8 U.S.C. 1227(a)(2) describes criminal offenses that qualify for deportations, such as crimes of moral turpitude, multiple criminal convictions, aggravated felony, and high-speed flight. These mostly come from the previous act including IMMACT and IIRIRA. The term aggravated felony, for example, was first introduced in the ADAA of 1988 then expanded throughout each president. The enforcement of the immigration laws was built over time, and President Trump has once again emphasized it.

The second part of the order increases the number of agents and use of state and local agents as immigration officers under the 287(g) program of the INA. In 2017, the Trump administration signed twenty-five new agreements in addition to the remaining

thirty-four agreements that were signed under the Obama administration (Pham, 2018). Furthermore, the order directs ICE to hire additional 100,000 officials. It also authorizes the Secretary of DHS shall have power without a warrant to investigate individuals' immigration status; access the databases; arrest any alien violating laws; and issue detainers. They engage with the Governors of the States and local agents through the agreements under section 287(g) program of the INA. This program was introduced in IIRIRA of 1996, expanded under President Obama, and fully used by Trump's administration through empowering the state and local agents "to perform the functions of an immigration officer ... to the maximum extent permitted by law." The order on the other hand reversed the Obama administration's Priority Enforcement Program (PEP) and reinstituted the Secure Communities program. The program directs the Department of Justice and DHS to adequately fund for criminal prosecution offenses and develop a cooperative strategy. This is sometimes referred to as "Operation Streamline" that the Bush administration first introduced to deter illegal border crossings.

The third part of the order is something novel of the Trump administration which punishes "sanctuary jurisdictions." It orders DOJ and DHS to ensure that jurisdictions fully comply with 8 U.S.C 1373 or else they won't be eligible to grant federal funds "except as deemed necessary for law enforcement purposes." States have developed various policies of their own for several decades, but the federal government argued that states need to cooperate with federal authorities to enforce immigration laws, which in other words is called sanctuary policies. This effort was blocked by the Court earlier, but on July 12, 2019, a federal court gave President Trump a victory, upholding the award system for those who cooperate with immigration authorities. The first two

parts of the executive order originated from the previously enacted laws, while the last part was newly created under the Trump administration.

As discussed, executive order 13768 is a continuation of the laws that were implemented via the earlier presidents with a slight change. The enforcement of priorities removal was based on the law that was expanded throughout each administration, such as aliens who were convicted of crimes. Moreover, the 287(g) program and Secure Communities were implemented by IIRIRA in 1996. Although Trump removed the PEP that was introduced during Obama, the overall order remains similar. It requires a cooperative strategy among federal, state, and local agents to enforce immigrant deportation. There is one thing that is unique about his executive order: the punishment of sanctuary cities. However, this policy also falls into line with other immigration policies. By awarding a grant to those who cooperate with federal authorities, the administration is trying to secure the border and prevent further illegal entry into the country.

## 2. The Wall

Trump's one of the biggest immigration campaigns was building the wall at the Southern border. As promised, he signed Executive Order 13767 "Border Security and Immigration Enforcement Improvement" soon after entering the White House. This order gained a lot of attention due to its statement on constructing a physical wall at the US-Mexico borderline. This attempt to build the wall was however not something new. Rather, it was based on the Immigration and Nationality Act, the Secure Fence Act of 2006, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, demanding to ensure the territory's safety. Its purpose according to Trump, is to obtain

“operational control” over the southern border, “prevent illegal immigration,” and remove unlawful individuals. The order suggests that illegal immigrants trying to cross over the southern border are, in fact, a great danger to the interests of the United States. It stated that unauthorized migrants are associated with transnational criminal organizations that contribute to “a significant increase in violent crime and United States deaths” (Trump, 2017).

Due to financial and political disputes, the wall has yet to be fully constructed. Unlike his promise that Mexico will be fully charged for the construction, in January 2018, the administration requested \$18 billion to build about 700 miles of fences at the Southern border, which included 316 miles of new walls and 407 miles of reinforcing existing walls. However, at the end of the year, Congress refused to include a fund for the wall in the next year’s funding bill. President Trump (2019) as a response triggered a shutdown of the government, and released an amended plan:

- \$5.7 billion for the steel barrier system
- \$805 million for technology, canines, and personnel to help stop the flow of illegal \$drugs, weapons, and other contraband
- \$800 million in humanitarian assistance, medical support, and new temporary housing
- \$782 million to hire additional 2,750 border agents, law enforcement officers, and staff.
- \$563 million to support the immigration court system, in exchange for
- Provisional status for current DACA recipients (700,000), and TPS recipients (300,000) for three years.

The shutdown lasted for 35 days, which was the longest government shutdown in US history. However, despite the requirement of the Trump administration, the new \$328 billion spending bill introduced by Congress only included \$1.4 billion for the construction of the wall. Trump signed the bill but soon declared a state of emergency to secure an additional \$8.1 billion of resources. This included \$601 million from the Treasury Forfeiture fund, \$2.5 billion under the Department of Defense (DoD) fund for Support for Counterdrug Activities, \$3.6 billion from Department of Defense military construction.

Although he aggressively acted to secure funding for the construction of the fence, unlike the former presidents, Trump was not the first president to command a wall. In fact, as mentioned earlier, previous administrations had proposed and constructed the wall, paving the way for the Trump administration to bring the current situation. Executive order 13767 signed by Donald Trump draws on existing laws, such as the INA, Secure Fence Act, and IIRIRA. However, the history of the wall goes far beyond these laws. “By the late nineteenth century, a series of new US laws restricted a growing number of immigrants from crossing the border” (Miller, 2019). In 1909, the federal government first built a fence along to border in Baja to prevent Texas fever from spreading to the American cattle. The outbreak of the Mexican Revolution in 1910 and the entry of World War 1 then changed the border which became more recognizable. The fears of espionage along the border surged and as a response, both Mexico and the United States agreed to put up a six-foot fence. Even after the end of war and revolution, the border fences maintained and were upgraded in the next decades.

In the contemporary era, federal laws authorized the Department of Homeland Security (DHS) to construct the wall along the US-Mexico border to secure national

safety. The primary law authorizing the barrier is Section 102 of IIRIRA, which directs the Attorney General to take necessary actions, such as installing additional physical barriers to prevent illegal crossings to the country (Stimson et al., 2020). Moreover, the law granted a waiver to the attorney general in the construction of the building. The 14-mile triple fences were built. Congress made amendments to this law via the REAL ID Act, the Secure Fence, Act and the Consolidated Appropriations Act, and further construction was made. On October 26, 2006, Congress passed the Secure Fence Act, which authorized and partially funded the construction of 700 miles of fencing along the southern border with a waiver to legal requirements. The law was agreed upon by renowned Democrats politicians such as Barack Obama and Hillary Clinton. By 2014, DHS indicated that the wall along the Southern border constructed was slightly less than 653 miles, including 352.7 miles of fence and 299 miles of vehicle fencing (installed to impede vehicles, not persons). According to Garcia (2017), due to the established laws, Donald Trump and DHS face no challenge from constructing the wall. The current form of section 102 of IIRIRA,

- Authorizes DHS to construct barriers and roads along the international borders in order to deter illegal crossings at locations of high illegal entry;
- Requires the construction of reinforced fencing covering at least 700 miles along the southwest border, though the Secretary is not required to install fencing at any particular location;
- Authorizes for the installation of additional physical barriers and infrastructure to gain operational control of the southwest border;

- Requires a specified amount of fencing in priority areas along the southwest border, which DHS was instructed to have completed by December 31, 2008; and
- Provides the Secretary of Homeland Security with authority to waive any legal requirements which may impede construction of barriers and roads under Section 102 (Garcia 2017).

The long history of border security in the United States laid the cornerstone to the current demands for a US-Mexico border. Previous laws indicated the importance of the physical barrier in the deterrence of illegal immigrants. As of October 2020, the government announced the construction reached nearly 400 miles of the new border wall. Trump administration has shown abnormal approaches in building the wall, but it was a continuation of the past administrations' effort to construct the fence at the Southern borderline.

### 3. Muslim Ban: Imposing Entry Restrictions

Another important immigration-related executive order that Trump signed was Executive Order 13769, "Protecting the Nation from Foreign Terrorist Entry into the United States." This also showed some differences and similarities to the past presidents.

The order under Trump listed seven countries that are suspended for 90 days from entry: Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. Also, executive order 13769 suspended the United States Refugee Admission Program (USRAP) for 120 days, banning refugees from entering the country, while putting an indefinite halt to Syrian



refugees. The order states that the purpose is to protect the nation from terrorists and the focus is clearly on the Muslims. The order soon became known as the Muslim Ban. After Trump signed the order, numerous lawsuits were brought. A judge in New York City and Seattle blocked the order from going into effect. Trump's administration issued three different versions of the Muslim ban in response to evade accusations of racist and religious discrimination. The second version removed Iraq from the list of seven countries. The U.S. District Court in Hawaii (2017) stated that the revised version of the Muslim Ban discriminates against people by their region and religion, claiming that "by singling out nationals from the six predominantly Muslim countries, the Executive Order causes harm by stigmatizing not only immigrants and refugees but also Muslim citizens of the United States." The plaintiffs point to public statements by the President and his advisors regarding the implementation of a "Muslim ban," which the Plaintiffs contend with the tacit and illegitimate motivation underlying the Executive Order. Then the third version of the executive order was signed, adding North Korea and Venezuela to the list of the countries, without indicating an end date for the ban. On April 25, 2018, the Supreme Court agreed to hear oral arguments around *Trump v. Hawaii* (585 U.S. \_\_\_\_ (2018)), and in a 5-4 vote, the court ruled that the Muslim ban did not single out a specific religion, and the President has "ample power to impose entry restrictions." According to the opinion of the court, the executive order has a "legitimate grounding in national security concerns ... apart from any religious hostility." As a result, the court deferred to sovereign power and upheld the third version, reversing the lower courts' decision on stopping the ban.

It was not only the Trump administration who practiced the power to impose entry restrictions. The authority that gave the president power relies on 212(f) of the Immigration and Nationality Act of 1965 (INA). The provision indicates,

(f) Suspension of entry or imposition of restrictions by President

Whenever the President finds that the entry of any aliens or any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate. Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.

The provision has been included in the INA since 1952. It was not until the Reagan administration that employed 212(f) to impose entry restrictions (Harrington et al. 2020). Over the years, just like Donald Trump, previous presidents had suspended entry of individual aliens “detrimental to interests of the United States.” Reagan suspended the Cuban immigrants in 1986. Clinton suspended immigrants “who formulate, implement or benefit from policies that are impeding the transition to democracy”, especially those from Nigeria, Liberia, Burma, Federal Republic of Yugoslavia. George W. Bush and Barack Obama suspended a large group of immigrants from entering the country.

Trump's executive order suspending the entry of certain immigrants may follow a similar routine to the previous administrations but differ in several aspects (Bier, 2017).

Nevertheless, what makes this decision different from the previous administrations is a standard of restrictions. All other presidents from Reagan through Obama, just like Trump, relied principally upon 212(f) of the INA, which authorizes presidents to suspend the entry of all aliens or any class of aliens detrimental to the interest of the United States. The past presidents' proclamations, however, banned individuals based on their personal conduct (Bier, 2017). They specifically identified targeted persons, including, those who contribute to the situation in Libya (actions that threaten the peace of the country), who engage in transactions involving North Korea, who attack the UN mission, or who threaten a country's transition to democracy. According to Bier, from 1980 to 2016, only 2 percent of the time was nationality a requirement for the ban. On the other hand, Trump's travel ban proclamation imposed entry restrictions based solely on nationality, unlike any other president. All visa applicants from Syria and North Korea were subject to the ban.

Furthermore, his order has been accused of discrimination against religion. In her dissent from the Supreme Court decision of *Hawaii v. Trump*, Justice Sotomayor argued the order President created "is contaminated by impermissible discriminatory animus against Islam and its followers." She argued that the government's action of favoring one religion can "foster the hatred, disrespect and even contempt of those who contrary beliefs," because it could "send messages to a member of minority faiths that they are outsiders, not full members of the political community," thus, the Constitution should not discriminate people by religion. She criticized that the Court's decision failed to follow the fundamental principle of the United States: the promise of religious liberty.

Another big difference between Trump and other presidents' order is different in scale. The third version of Trump's order bans seven countries in total: Iran, Libya, Somalia, Syria, North Korea, Venezuela, and Yemen. Bier (2017) of the CATO Institute concluded that Trump's Muslim ban if fully go into effect, may impact about 183.6 million people – the sum of the population in the seven countries. He further argued that this number is comparable to the 10.2 million Cubans that President Regan banned in 1986, which was the only other case that barred immigrants based on nationality. The author concluded that all other 42 proclamations made by other presidents since Reagan through Obama all together barred about 30,000. Although he added that his number could be somewhat larger, it is undeniable that Trump's Muslim ban has impacted the largest number of people based on their nationality.

Recently, Trump added eight more countries to the list: Myanmar Eritrea, Kyrgyzstan, Nigeria, Sudan, and Tanzania. The decision was made after assessing national security and public safety threats through a model using three categories: “whether a foreign government engages in reliable identity-management practices and shares relevant information; whether a foreign government shares national security and public-safety information; and whether a country otherwise poses a national security or public-safety risk” (Trump, 2020). The Supreme Court has previously acknowledged the power of the president in the Trump v. Hawaii case, allowing the executive branch to enjoy its authority to impose bar against immigrants. As a result, Trump's order has impacted the greatest number of people and even expanded its list, leaving more people under the impact. Even though Trump has used his authority under 212(f) of the INA, like that of his past administration, his suspension of entry was indeed different in scale and method.

## 4. Detention of Illegal Immigrants

Trump also has been following the major framework of previous administrations' immigration policy on immigrant detention but differed in various ways. Trump with its zero-tolerance policy, announced that they would prosecute every illegal entry case. This didn't mean that the DHS is prosecuting every single illegally entered immigrant but meant anyone could be accused even those seeking asylum, or those who are a parent. In other words, if parents were taken to custody, their children would be separated from them. However, it was not the first time in US history, when parents and children were separated. Under President Obama, families were also separated in specific circumstances, such as fathers carrying drugs. Obama administration was challenged by the courts for such action, which set a standard of 20 days holding for both unaccompanied and accompanied ones. The administration did not count the numbers of children's separation from their parents and downplayed this enforcement, unlike Trump who made it a signature issue of his presidency (Ordoñez and Kumar, 2018).

The history of detention policy goes even further to President Reagan in 1981, detaining Haitian and Cuban refugees. When he took over the office in 1981, the country was facing a severe immigration crisis with more than 140,000 refugees (Haitians and Cubans) flowing into the country. Reagan administration established immigrant detention centers as a response to the flux of immigrants. Congress has also played a role in expanding the detention policy. In 1985, Congress passed a law authorizing funding for the permanent immigration detention facility, which could hold up to 6,000 people

(Smita, 2019). Since then, the detention policy was used against immigrants, until today's recent policy of family separation.

The previous administrations' detention policy again laid a path to Trump's immigration reform. Nevertheless, his policies are somewhat more aggressive than others. In his tweet on June 19, 2018, Donald Trump stated illegal immigrants "infest" their country, and he attempted to punish them in many different ways. Under Trump, 2,654 children were initially separated from their families (ACLU, 2018). His approach to managing immigrants carries the elements of the former presidents but in an aggressive way. None of the other administrations put family separation policy at the forefront, while Trump actively separated children of unauthorized aliens. However, his policy was blocked by the Courts and ordered the administration to reunite the families. On June 20, 2018, President Trump signed an executive order directing DHS to not separate families, with exception to cases where parent risks the child. Despite the order, a recent report by the DHS (2020) claimed that Customs and Border Protection (CBP) has separated asylum-seeking families at ports of entry. The practice of detaining illegal immigrants started from President Reagan and was carried out under other presidents. However, family separation has never been at the forefront during those administrations. Although Obama may have laid an idea for Trump's immigration policy, he did not actively separate families at the ports of entry.

## 5. DACA

Along with his efforts to strengthen the previous immigration policies of the former administration, he also revoked some of the past policies, especially that of

Obama, his immediate predecessor. One of the most noticeable immigration policies of the Obama administration that was revoked by President Trump was Deferred Action. In 2012, President Obama announced a memorandum, that DHS would exercise “prosecutorial discretion” for people brought to the United States as children and who identify themselves as Americans (Napolitano, 2012). This program gave recipients a renewable two-year period of deferred action from deportation and eligibility to work. Almost 790,000 have ever received DACA status. Trump’s new immigration policies targeted these recipients. On September 5, 2017, President Trump ended the DACA program, claiming that it is an “unconstitutional exercise of the executive branch.” The administration was about to take away the access of Dreamers (those impacted by DACA) to educate and work. Soon after the announcement, the Trump administration received severe criticisms. Federal Judges in San Francisco and New York ordered the administration to continue to renew DACA status until the final decision is made. On June 18, 2020, the Supreme Court by a 5-4 vote, blocked the Trump administration’s attempt to end DACA.

Instead of ending the program, the Trump administration then used DACA as a tool to negotiate its immigration policy. This shows a close resemblance to previous immigration reform of the former administrations. In 2018, he released an initial framework on immigration reform which included the followings:

- \$25 billion trust fund for the border wall system, ports of entry/exit, and northern border improvements and enhancements;
- Ending extended-family chain migration;
- Eliminating the visa lottery system and;

- Providing legal status for DACA recipients and other DACA eligible illegal immigrants.

Previous presidents proposed similar immigration reform through the grand bargain strategy. President Reagan provided amnesty to 3 million illegal immigrants with the enhancement of border security under the IIRIRA. President George H. W. Bush extended amnesty to family members who were excluded in the law also enforcing immigration law. President Obama deported more illegal immigrants than any other president but in an exchange for the DACA program. They all have used the grand bargain strategy to achieve their goals in immigration. Trump has used a similar strategy and proposed a new framework for immigration policy. While continuing the DACA program, he tried to secure funds for the wall. However, his immigration reform proposals were rejected by Congress. Due to legislative and judiciary branches' restraint, the executive branch failed to carry on its immigration reform.

Trump's overall immigration reform remained somewhat similar to the predecessors. Previously enacted laws vested him with authority to exercise the executive orders he signed: enforcing border security, constructing the wall, imposing entry restrictions, and detaining undocumented foreigners. Even though his orders have affected numerous immigrants in a harsher way than ever, these policies were, again, not a departure from the past administration. It was rather a continuation of the past immigration policy. Trump was never the first to build the wall at the Southern border, nor he was not a pioneer of deporting immigrants. One of the most significant changes that Trump tried that differed from the past presidents was ending DACA, but his trial was challenged by Congress and Supreme Court, which eventually failed. Trump



maintained the framework of the past immigration policies but differed in scale and method of implementing them.

## Chapter IV. Usage of Executive Power on Immigration Policy

Another major difference in Trump's immigration policy is its method of implementing the policy. Unlike the past administrations, Trump has issued various presidential directives, such as executive orders, presidential proclamations, and memoranda to make significant changes to immigration policy such as refugee, visa screening, and border enforcement. As discussed in chapter 3, most immigration policies were made through executive orders of the president. Executive orders are powerful tools that the president of the United States is granted to "establish policy, reorganize executive branch agencies, alter administrative and regulatory processes, affect how legislation is interpreted and implemented, and take whatever action is permitted within the boundaries of their constitutional or statutory authority" (Mayer, 1999). It allows presidents to achieve their goals in a quick manner even if Congress refuses to pass legislation. Whereas presidential proclamations are less powerful that allows the president to communicate on holidays, commemorations, as well as trade and immigration. This can make a major policy statement directed to the general public, while EOs are directed to the executive branch. Many scholars argued that President Trump is altering the past immigration policy in the opposite direction through his presidential power. As concerned, is Trump trying to go against the previous admirations? Then, how does Trump's usage of executive actions unique compare to that of his predecessors?

To understand whether Trump is an outlier in the method of implementing the immigration policy, I have examined the total number of the executive order and the yearly average by each president. President Trump has yet to finish his first presidency term; therefore, it is difficult to compare to other presidents. However, compared to George H. W. Bush, who had also served for a four-year term, President Trump signed additional 24 executive orders, which is noteworthy. In order to compare with other presidents who served as a president for eight years, we must contemplate the number of executive orders issued in the first year of the presidency term and the yearly average.

Trump issued 55 executive orders during his first year as a president. This was more than his two previous presidents Obama (39 EOs) and G. W. Bush (54 EOs). Indeed, this was more than any of the presidents since Reagan with exception of Bill Clinton who issued 57 orders. The yearly average of executive orders issuance by the US presidents counts to 43, whereas Trump's yearly average falls slightly above that of other presidents by 50. Although his issuance of the executive order is higher than his previous two presidents, compared to Reagan, George H.W. Bush, and Clinton, Trump's action was not something extraordinary. Although his first-year EOs and yearly average are slightly above the average, he is not an outlier. Potter et al. (2019) concluded that Trump's use of executive orders shows a similar pattern to previous presidents in purposes and on issues. Trump's executive activity falls in line with previous presidents who issued EOs related to foreign policy, national security, and defense. However, the author said, unlike the others, "a greater share of Trump's national security orders dealt with immigration." For instance, out of his first five executive orders, three were immigration-related that enforced national security to enhance public safety.

**Table 1.** Executive Orders by Presidents

<b>President</b>	<b>Total number of Executive Orders</b>	<b>First Year</b>	<b>Yearly Average</b>	<b>Total number of Proclamations</b>	<b>First Year</b>	<b>Yearly Average2</b>
Reagan	381	50	48	1118	72	140
G.H.W. Bush	166	31	42	589	149	147
Clinton	364	57	46	606	84	76
Bush	291	54	36	941	115	118
Obama	276	39	35	1228	128	154
Trump*	190	55	50	528	119	144
Average	278	48	43	835	111	130

\* Until August 2020

Sources: Federal Register and National Achieves (2020)

Another presidential directive, proclamations are taken into consideration. The proclamation may appear as irrelevant, due to its use to pronounce ceremonies, it is often used as a major policy statement to the general public. According to Cooper (2014), the presidential proclamation “states a condition, declares the law and requires obedience, recognizes an event, or triggers the implementation of a law.” Like previous administrations, Trump has used proclamations to address several policy areas. For example, Trump has announced on February 7, 2019, addressing “Mass Migration Through the Southern Border of the United States” to suspend and limit the entry of illegal immigrants.

Trump has issued a total number of 528 proclamations until August 2020. This is less than each president. However, Trump’s yearly average is slightly higher than the average, followed by Obama (154 proclamations) and G.H.W. Bush (147 proclamations). The number of proclamations declared in the first year in office also falls higher than the average. But compare to Barack Obama, it is indeed less. Waslin (2020) stated that 2.4 percent of Trump’s proclamations have been immigration-related, which is the highest among other presidents since Reagan. Bill Clinton’s average (2.0 percent) come close to Trump’s while Reagan, GHW Bush, G.W Bush, and Obama’s immigration proclamations were below 1 percent.

The overall use of presidential directives by Trump was a continuation of the past administration. However, regarding the immigration-related executive actions, Trump showed a clear difference.

**Table 2.** Immigration-Related EOs by Presidents

President	Immigration-related EOs	Total number of Executive Orders	Percentage of total
Reagan	4	381	1.2
G.H.W. Bush	2	166	1.2
Clinton	3	364	0.8
Bush	4	291	1.4
Obama	18	276	6.5
Trump*	27	183	14.7
Total	58	1668	4.2

\*Until August 2020

Source: American Presidency Project (n.d), Federal Register (n.d) and National Archives (2020)

With respect to immigration-related executive orders, Trump's activity has been an outlier. Trump signed 27 immigration-related EOs within 44 months of the presidency by August 2020.<sup>1</sup> Except for Barak Obama (6.5 percent), other presidents' immigration-related EOs had only taken about 1 percent of their total executive orders. The average percentage of immigration-related EOs to the total number of EOs reached 4.2 percent, Trump's executive orders were 14.2 percent, which is indeed an outlier. Waslin (2020) concluded that not only Trump is an outlier regarding the volume of immigration-related executive orders, but also the content of those EOs is different from the predecessors. He classified immigration-related executive orders into five categories: government administration, task force or reporting, military naturalization, policy-making, and section 212(f). He found out that Trump has never issued any immigration-related task force or reporting, military naturalization while signed eight policy-making and two government administrations described as EOs through September 2019. Then,

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<sup>1</sup> See appendix for the list of 27 executive orders.

he argued that “the majority of Trump’s EOs have been used to set new policy directions, reinterpret current laws, or direct law enforcement agencies.” His security border security and interior enforcement EOs, for instance, have an increased number of border patrols and infrastructure among other provisions.

What is noticeable in Trump’s executive action is that he has used presidential directives to create new immigration policies. For instance, the first two executive orders that Trump signed both enforced the border patrol agents and infrastructure, and increased detentions and deportations. The “Travel ban” also barred individuals from seven countries, which goes beyond the previous implementation. The proclamations addressing “Mass Migration through the Southern Border” also enforced the border. Trump has set policies and enforcement through executive actions but none of the previous presidents except Reagan had arranged immigration enforcement through executive orders and proclamations (Waslin 2020).

All presidents had used their executive tools, such as executive orders and proclamations. They had used these tools to amend, revoke, and create policy. To the extent of immigration policies, on the other hand, Trump has used it to make policies that harm nonimmigrants. He exercised his authority without consultation with Congress and other agents. Some of the cases have been challenged in the courts. For example, after the issuance of the Travel ban executive order, federal judge Ann M. Connelly ordered an emergency stay to protect those impacted. Another federal judge James Robert issued Temporary Restraining Order (TRO) to suspend enforcement of the executive order. However, Trump’s anti-immigrant policies are not original in American history. His method to implement such policies may be different from the past presidents, but the overall direction of his executive actions shows similarity to that of the past immigration

laws established by previous administrations: anti-immigration. Understanding the differences and similarities of the immigration policy of the past government is crucial in explaining Trump's zero-tolerance policy.

## Chapter V. The Reason Behind Trump's Immigration Policies

Trump has followed the overall direction in immigration policies that were laid since President Reagan: strengthening border security while opening to certain immigrants. However, it is undeniable that Trump showed a significant difference in its degree and method of immigration reform. Especially during the 2016 presidential campaign, he has made extreme statements about illegal aliens. He used the term "us" and "them" several times when describing Americans and non-Americans, which is unusual in American politics (Beckwith, 2017). Trump made it clear that he will protect his people from any harm. Despite his racist and discriminatory statements, Trump won the electoral college with 304 votes compared to 232 votes for Hillary Clinton in the 2016 presidential election.

One of the winning factors of the 2016 presidential election was immigration. Pew Research Center (2016) found out that the economy and terrorism were the top two voting issues in the 2016 elections, and in a survey asking which candidate would do a better job of handling the issues, Trump held an advantage in both areas. Another top voting issued was immigration. Moreover, about 70% of the respondents cited immigration as very important than the environment, race relations, and supreme court appointments. Donald Trump, as a nationalist, emphasized that the US should implement

harsher immigration enforcement to protect the economy and national security of the country. His slogan in the 2017 presidential election continuously emphasized “America First” while dismissing “globalists”, who he stated as a person that “wants the globe to do very well, frankly not caring about our country so much.” This statement indicated that Trump values the virtue of being American more than citizens of the world with universal rights (Papazoglou, 2019). Trump’s campaigns met the needs of American citizens. The result of the 2016 presidential election reflected that Trump’s campaign and logic won the support of many Americans.

His win was largely attributed to white working-class voters who overwhelmingly cited anxiety over immigration as the reason they voted for According to Jones et al. (2017), views of immigration represented one of the biggest divides among people who voted for Trump and those who voted for Hillary Clinton. Trump supporters shared characteristics of being old, less educated, and are pessimistic about their economic status, and also have a prejudice against immigrants (Smith and Hanley, 2018). Those who favored deporting immigrants were 3.3 times more likely to express a preference for Trump than those who did not (Jones et al., 2017). Trump voters had felt disrespected by the country; thus, supported Trump because of his promise to remember the “forgotten man. From these, we could understand that Trump voters have a prejudice against immigrants while feeling relatively deprived and misrepresented by the government. Trump promised to secure citizens of the country in all aspects of life by implementing American-centered policies while eliminating outsiders who cause harm to the country.

As he pledged to secure the life of Americans, after the inauguration, President Trump fought for American citizens against immigrants. His executive order



13788 “Buy American, Hire American,” especially reflects on the value of his political stance. The order aims to protect the economy and national security via creating good jobs at decent wages, strengthening “our” middle class, and supporting manufacturing and defense industries, while preventing frauded and abused immigration system to protect American workers. To meet the needs of his supporters, President Trump has actively enforced laws, securing the American citizens, especially those who were forgotten (James, 2020). However, Trump’s immigration orders received several criticisms for neglecting the value of liberalism, which extends political responsibility to everyone.

Trump’s immigration policies have departed from America’s liberalism side. In the past, the US has signed several international documents that specified human rights issues. In fact, the United States, more than any other government, had initiated and engineered most of the agreements that codified global human rights laws such as the 1996 Convention on Elimination of All Forms of Racial Discrimination and the 1966 International Covenant on Civil and Political Rights. Each includes specific human rights protections. Regardless of the past efforts, President Trump has divided the American society into “us” vs. “them,” to favor the people of own rather than considering every individual right.

Trump valued the life of Americans and proposed campaigns based on this idea. Trump won the election of 2016, with the support of people who agreed to his rhetoric. He has tried to achieve what he had promised in the last few years on immigration ground. He built the wall, the limited number of asylum seekers, deported illegal aliens, but the recent 2020 presidential election shows that he failed to attract support. Biden, a Democratic presidential candidate, defeated Trump.

## VI. Conclusion

Beginning from his presidential campaign in 2016, through his presidency term, President Donald Trump's rhetoric has been controversial. Mainstream media criticized Trump for his radical speeches. Trump was heavily criticized for his posting on Twitter stating that illegal immigrants infest the country. With such ideas, Trump's immigration policies continuously prevented aliens from entering the US territory. He had built the wall, enforced border security, limited acceptance of asylum seekers, and deported undocumented immigrants. His method of implementing immigration policy showed a significant difference from the previous administrations. Most of his policies were made through executive actions, unlike the past presidents. The power authorized presidents to make policy without consulting with Congress; thus, it was easier for Trump to create, and amend immigration policies. Although Trump is one of the most anti-immigration administrations in American history, it was his predecessors who made it possible for Trump to implement harsher policies.

Since President Reagan, each administration had maintained its closed-door policy to immigrants. The contemporary presidents have criminalized illegal immigrants through drugs and terror, preventing their entry into the country. Laws allowed the federal government to cooperate with local and state agents to deport those who violate the law. Moreover, before Trump, the wall was constructed under President Clinton and George Bush to bar illegal entry through the Southern border. Congress had passed several laws authorizing the agents to build the wall and even funding them. While keeping the closed-door policy toward illegal immigrants, each president presented a grand bargain strategy that enforced border security in exchange for granting citizenship to certain immigrants.

America's immigration policy has always been balanced out through closing doors to illegal immigrants while opening to good immigrants. These laws have paved the road to the Trump administration's current policy. Although the Trump administration may have been more radical in managing the crisis of illegal immigrants, in a big framework, he has continued the past administrations' strategy.

The Trump administration favored American citizens over foreigners, which traces the long history of anti-immigration laws. His rhetoric portrays immigrants as economic, security, and criminal threats to the country. The tools he used to penalize and deport immigrants existed thanks to enacted laws and policies of the past. With these tools, he promised the forgotten people that he would reward them and make America great again. Trump was supported by people who agreed to his rhetoric that values the life of Americans over the outsiders. A conflict between those who advocated immigrants and those who oppose immigrants has continued before Trump. Nevertheless, Trump's election increased the tension between the two. His immigration policy shifted the US immigration policy to the latter. It was not only Trump's effort but the support of citizens who voted for Trump as the president and the effort of the previous administrations.

The result of the 2016 presidential election shocked the world, and since then Trump has implemented an immigration policy that valued American citizens' rights over foreigners. The trend of anti-immigration continued from the past administrations but strengthened under the Trump administration. Nevertheless, Trump and his supporters should never forget the key ideas of the founding principle: the rule of law. All laws should be equally enforced, and consistent with international human rights. It is the job of the Judiciary and Legislative branches to prevent the executive branch from using excessive power to alter society.

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# Appendix

**Table 3.** Immigration-Related Executive Orders by Donald Trump

Number	Executive Order Title
13767	Border Security and Immigration Enforcement Improvements
13768	Enhancing Public Safety in the Interior of the United States
13769	Protecting the Nation From Foreign Terrorist Entry Into the United States
13773	Enforcing Federal Law With Respect to Transnational Criminal Organizations and Preventing International Trafficking
13776	Task Force on Crime Reduction and Public Safety
13780	Protecting the Nation From Foreign Terrorist Entry Into the United States
13788	Buy American and Hire American
13802	Amending Executive Order 13597
13808	Imposing Additional Sanctions With Respect to the Situation in Venezuela
13810	Imposing Additional Sanctions With Respect to North Korea
13815	Resuming the United States Refugee Admissions Program With Enhanced Vetting Capabilities
13841	Affording Congress an Opportunity To Address Family Separation
13846	Reimposing Certain Sanctions With Respect to Iran
13848	Imposing Certain Sanctions in the Event of Foreign Interference in a United States Election
13849	Authorizing the Implementation of Certain Sanctions Set Forth in the Countering America's Adversaries Through Sanctions Act
13850	Blocking Property of Additional Persons Contributing to the Situation in Venezuela
13851	Blocking Property of Certain Persons Contributing to the Situation in Nicaragua
13871	Imposing Sanctions With Respect to the Iron, Steel, Aluminum, and Copper Sectors of Iran
13876	Imposing Sanctions With Respect to Iran
13880	Collecting Information About Citizenship Status in Connection With the Decennial Census
13882	Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Mali
13884	Blocking Property of the Government of Venezuela
13888	Enhancing State and Local Involvement in Refugee Resettlement

13894	Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria
13902	Imposing Sanctions With Respect to Additional Sectors of Iran
13936	The President's Executive Order on Hong Kong Normalization
13940	Aligning Federal Contracting and Hiring Practices With the Interests of American Workers

Source: Federal Register (n.d).

## 국문초록

2016 년 대선 당시 도널드 트럼프 후보의 이민정책 캠페인은 논란의 대상이 되었다. 트럼프 당선으로 자국의 이민정책에 큰 변화가 생기고 멕시코인, 고숙련 이민자, 사회 등 사람들에게도 영향을 미칠 것이라는 게 중론이었다. (베레아, 2018; 마틴, 2017; Miner and Peterson 2018; Pierce et al., 2018.) 백악관에 들어선 직후 그의 이민 개혁은 심한 비난을 받았다. 대통령 취임 후 불과 5 일 만에 공안 확보를 목적으로 두 차례 행정명령에 서명했다: 미국 내 공공 안전 강화 및 국경 보안 및 출입국 관리 개선. 이 명령들은 국경 보안을 강화하고 불법 체류 외국인을 제거하는데 목적을 두었다. 그는 이 두 가지 명령 외에도 여러 차례 행정 명령과 위임장을 사용해 이전의 이민 정책, 특히 오바마 대통령의 정책을 취소하고 수정했다. 뉴스 매체들은 경쟁적으로 트럼프의 이민정책에 대한 비판적 의견을 쏟아냈다. 뉴욕타임스(2020)는 최근 트럼프 대통령의 이민정책이 이민의 모든 측면에 부정적 영향을 미쳐 되돌리기가 어렵다는 내용의 '트럼프의 이민개혁은 생각보다 심하다'는 기사를 실었다. 월드먼(2019 년)은 트럼프의 이민정책이 얼마나 '가혹'한 것인가에 대한 의견을 썼다. 이 논문은 트럼프 대통령의 이민개혁이 과거 정권과 정말로 다른지 의문을 제기한다. 저자는 더 나아가 만약 정부 이민 정책간의 차이가 있다면 무엇이 다른지, 또한 트럼프 대통령이 왜 이런 변화를 이뤄냈는지 등을 질문한다.

다음의 질문에 답하기 위해 나는 대통령, 특히 레이건에서 트럼프에 이르기까지 대통령이 사용하는 전반적인 행정권력의 관행을 비교하는

것부터 시작해 이민정책과 관련된 것이 몇 개인가를 비교하는 것부터 시작한다. 역대 대통령들에 비해 트럼프 대통령은 과도한 행정력을 동원해 이민정책을 변화시켰다. 그럼에도 그의 이민개혁 내용은 과거에서 벗어나지 않았다. 이어 논문에서 반(反)이민 정책은 트럼프에서 시작된 것이 아니라고 설명한다. 현대 이민법을 살펴봄으로써 과거의 정책이 트럼프 행정부의 이민정책과 유사한 점을 찾아내었다. 1986 년의 마약 남용 방지법과 1996 년의 불법 이민 개혁 및 이민자 책임법(IIIRA)은 이민자에 대한 "철저한" 집행을 확대하기 시작했으며 빌 클린턴과 같은 차기 대통령을 통해 더욱 강화되었다. 트럼프 대통령이 일부 정책을 수정했을지는 몰라도 그의 이민 정책은 과거법의 연속이라고 할 수 있다. 이 글은 오늘날 트럼프의 이민정책을 낳은 반이민 정책의 근원에 대한 역사적 분석으로 통해 설명을 제공한다. 이민정책 역사의 뿌리 깊은 정서를 이해하는 것은 현재의 미국의 이민정책을 이해하는데 도움을 준다.

**주요어:** 도널드 트럼프, 미국 이민 정책, 반이민정서

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